

**Aiyathurai Chandran @ Christian Chandran Aiyathurai v
Ketua Pengarah Jabatan Pengangkutan Jalan Malaysia & Anor**

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HIGH COURT (MUAR) — APPLICATION FOR JUDICIAL REVIEW
NO 13–1 OF 2007
UMI KALTHUM JC
8 APRIL 2010

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*Administrative Law — Judicial review — Application for — Decision of Director
General of the Road Transport Department to refuse road tax renewal of applicant's
car — Whether applicant's case became academic*

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On 22 October 2007 November the JPJ rejected Aiyathurai Chandran's ('the applicant') application to renew his car licence (road tax) on the grounds that the applicant's name had been blacklisted by the Traffic Branch of the Jasin Police District Headquarters. The blacklisting arose from a traffic offence charge against the applicant. On 23 October 2007, the applicant wrote to the Director General of the Road Transport Department questioning the authority of the department to blacklist his car when he had forwarded the prescribed fee for the renewal of the road tax. On 12 December 2007, the applicant filed an application for leave to apply for judicial review of the first respondent's decision refusing the road tax renewal of his car. When leave was granted the applicant filed the instant application for judicial review wherein he sought a review of the first respondent's decision and claimed, inter alia, damages for loss of use of his car during the period in question and costs. In the meantime, the magistrate at Jasin acquitted the applicant from the traffic offence charged and the Traffic Branch in Jasin released the applicant's name from being blacklisted. At the trial the first respondent submitted that the applicant's case had become academic since the road tax had already been issued in respect of the applicant's car.

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Held, dismissing the application with no order as to costs:

Since the road tax had already been issued in respect of the applicant's car, the application had been academic (see para 6). *Menteri Hal Ehwal Dalam Negeri, Malaysia & Ors v Karpal Singh* [1992] 1 MLJ 147 referred; *Ahmad Saidi bin Md Isa v Timbalan Menteri Hal Ehwal Dalam Negeri & Ors* [2006] 3 MLJ 208 referred; *Leonard Lin Yaw Chiang v Director of Jabatan Pengangkutan Jalan Negeri Sarawak & Anor* [2009] 6 CLJ 280 distinguished.

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[Bahasa Malaysia summary]

Pada 22 Oktober 2007 November JPJ menolak permohonan Aiyathurai Chandran ('pemohon') untuk memperbaharui lesen keretanya (cukai jalan)

- A atas alasan nama pemohon telah disenaraihitam oleh Cawangan Trafik Ibu Pejabat Polis Jasin. Penyenaraihitaman itu timbul daripada tuduhan kesalahan trafik terhadap pemohon. Pada 23 Oktober 2007, pemohon menulis kepada Ketua Pengarah Jabatan Pengangkutan Jalan menyoal kuasa jabatan tersebut untuk menyenaraihitamkan keretanya apabila beliau telah menyerahkan bayaran yang ditetapkan untuk pembaharuan cukai jalan. Pada 12 Disember 2007, pemohon memfailkan satu permohonan kebenaran untuk memohon bagi semakan semula kehakiman keputusan responden pertama yang menolak pembaharuan cukai jalan keretanya. Apabila kebenaran diberikan pemohon memfailkan permohonan ini bagi semakan semula kehakiman di mana dia memohon semakan semula keputusan responden pertama dan menuntut, antara lain, ganti rugi bagi kehilangan penggunaan keretanya sepanjang tempoh yang diperkatakan dan kos. Sementara itu, majistret di Jasin membebaskan pemohon dari dakwaan kesalahan trafik tersebut dan Cawangan Trafik di Jasin mengeluarkan nama pemohon dari senaraihitam itu.
- D Semasa perbicaraan responden pertama menghujahkan bahawa kes pemohon telah menjadi akademik memandangkan cukai jalan telah pun dikeluarkan bagi kereta pemohon.

Diputuskan, menolak permohonan tanpa perintah untuk kos:

- E Memandangkan cukai jalan telah pun diisukan bagi kereta pemohon, permohonan telah menjadi akademik (lihat perenggan 6). *Menteri Hal Ehwal Dalam Negeri, Malaysia & Ors v Karpal Singh* [1992] 1 MLJ 147; dirujuk; *Ahmad Saidi bin Md Isa v Timbalan Menteri Hal Ehwal Dalam Negeri & Ors* [2006] 3 MLJ 208 dirujuk; *Leonard Lim Yaw Chiang v Director of Jabatan Pengangkutan Jalan Negeri Sarawak & Anor* [2009] 6 CLJ 280 dibeza.]
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Notes

For cases on application for judicial review, see 1 *Mallal's Digest* (4th Ed, 2005 Reissue) paras 191–197.

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Cases referred to

Ahmad Saidi bin Md Isa v Timbalan Menteri Hal Ehwal & Ors [2006] 3 MLJ 208; [2006] 1 CLJ 977, CA (refd)

Leonard Lim Yaw Chiang v Director of Jabatan Pengangkutan Jalan Negeri Sarawak & Anor [2009] 6 CLJ 280, HC (distd)

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Menteri Hal Ehwal Dalam Negeri, Malaysia & Ors v Karpal Singh [1992] 1 MLJ 147; [1992] 1 CLJ (Rep) 212, SC (refd)

Legislation referred to

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Internal Security Act 1960 s 10
Road Transport Act 1987 ss 119(2), 128(1)

Christian Chandran Aiyathurai (CC Aiyathurai & Co) for the appellant.
Ashrof Adrin bin Kamarul (Deputy Public Prosecutor, State Legal Advisor Office, Johor) for the respondents.

Umi Kalthum JC:

THE JUDICIAL REVIEW

[1] The applicant applied in encl 4 for a judicial review of the first respondent's decision refusing to renew his driving licence and prayed for the following reliefs:

- (a) the first respondent to allow the renewal of motor vehicle licence for motorcar registration No MAM 389 ('the car') for the period beginning from 29 October 2007 till 28 October 2008 after fees have been paid;
- (b) damages for the loss of use of said car to be assessed; and
- (c) costs.

FACTS

[2] Based on the charge sheet in exh 'CCA 2B' of the applicant's affidavit affirmed on 10 December 2007 (encl 5) ('the applicant's affidavit'), on 20 November 2006 at about 8.13am the applicant was, while driving his car, summoned by the police for a traffic offence under r 3(1) LN166/59, punishable under s 119(2) read together with s 128(1) of the Road Transport Act 1987 (Act 333) ('the Act'). On 18 January 2007, the applicant appeared for the first time at the Jasin Magistrate's Court. The case was then fixed for mention on 9 March 2007. No further details of the proceedings at the Jasin Magistrate's Court are known.

[3] On 22 October 2007 at about 12.28 noon, the applicant's agent by the name of Razman went to the Road Transport Department, Segamat Branch ('JPJ') to renew the car's licence ('road tax'). However, the renewal was rejected and the JPJ issued a notice from the computer system informing that the applicant's name had been blacklisted by the traffic branch of the Jasin Police District Headquarters. In the same notice, the applicant was requested to refer the matter to the said traffic branch of the Police District Headquarters (see exhs 'CCA 2A', 'CCA 3A', encl 5).

[4] On 23 October 2007, the applicant through his solicitors wrote to the Director General of Road Transport Department Kuala Lumpur (exh 'CCA 3A', encl 5) ('RTD') questioning the authority of the RTD to blacklist the car when the prescribed fee was forwarded for the renewal of the road tax and gave notice of his intention to take legal action against the RTD.

A [5] On 12 December 2007, the applicant filed an ex parte application for leave to apply for a judicial review in encl 3. The leave was granted on 4 July 2008. The applicant then filed this application in encl 4 on 18 December 2007. In the meantime, on 21 January 2008, the traffic branch in Jasin Police District Headquarters had released the applicant's name from being blacklisted after the
B magistrate at Jasin acquitted the applicant from the traffic offence charge — see exh MY1, respondents' affidavit in reply, encl 18. Subsequently, the applicant's road tax in respect of the car was renewed for the period beginning 19 February 2008 until 18 August 2008.

C THE APPLICANT'S CASE HAS BECOME ACADEMIC

D [6] It was submitted by learned senior federal counsel ('SFC') that the applicant's case has become academic since the road tax had already been issued in respect of the applicant's car. I agree with his submission. In the Supreme Court case of *Menteri Hal Ehwal Dalam Negeri, Malaysia & Ors v Karpal Singh* [1992] 1 MLJ 147; [1992] 1 CLJ (Rep) 212, Hashim Yeop Sani CJ (Malaya) (as he then was) had this to say on this issue at p 150 (MLJ); p 215 (CLJ) paras b–d:

E As regards the first preliminary objection it is our view that the matter had indeed by the time the originating summons came before the learned judge, become academic. There was no living issue before the learned judge. There was no longer any lawful recipient of any benefit of any declaration sought in the originating summons. Cases cited by the learned judge (*Sun Life Assurance Co of Canada v Jervis* [1944] AC 112 (HL); *Loknath Padhan v Birendra Kumar* AIR 1974 SC 505; and *Mohamed Noor bin Othman & Ors v Haji Mohamed Ismail bin Haji Ibrahim & Ors* [1988] 3 MLJ 82; [1988] 1 CLJ (Rep) 224 constitute ample authorities for the court not to act in vain. The respondent had by then no real interest in the declarations. It will be a complete waste of judicial time if the court were to deal with the merits of the application in
F the originating summons solely to determine the question of costs.
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H In that case, Karpal Singh was detained under the Internal Security Act 1960 ('the 1960 Act') vide detention order dated 18 December 1987. Subsequently on 25 January 1989 an order under s 10 of the 1960 Act was made suspending the detention order subject to certain conditions. Karpal Singh was then released from detention. On 19 April 1989, an order was issued cancelling the detention order. The originating summons was taken out on 10 February 1989, after the detention order was suspended but before the detention order was cancelled.

I [7] The Court of Appeal in *Ahmad Saidi bin Md Isa v Timbalan Menteri Hal Ehwal & Ors* [2006] 3 MLJ 208; [2006] 1 CLJ 977 had similarly ruled on the same issue. Gopal Sri Ram JCA at p 211 (MLJ) para 4; pp 980–981 (CLJ) para 4 had this to say:

We were entirely in agreement with learned senior federal counsel that the appeal was indeed academic. The subject matter of the appeal was the correctness of the restrictive residence order made against the appellant and to which he had been subject. That order having come to an end, there was no longer a valid list before us for adjudication. Any views we may express about the validity or otherwise of the order would be wholly academic in the circumstances of this case. It will simply have no effect at all. It will mean that we would act in vain. And it is settled law that a court will not act in vain. Equally it is also settled that the court will not grant academic declarations ... There is therefore no alternative but to dismiss this appeal.

[8] Since the road tax had already been issued in respect of the applicant's car I therefore find that the application has become academic and I dismiss this application with no order as to costs. The facts of *Leonard Lim Yew Chiang v Director of Jabatan Pengangkutan Jalan Negeri Sarawak & Anor* [2009] 6 CLJ 280 are distinguished from this case as the issue of the review being an academic exercise did not arise in that case.

Application dismissed with no order as to costs.

Reported by Kohila Nesan

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